

*Baton Rouge
Area Foundation*

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March 8, 2016

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Ms. Kathleen Allen
Ethics Administrator
Louisiana Board of Ethics
Ethics Administration Program
P.O. Box 4368
Baton Rouge, Louisiana 70821

Re: Request for Updated Advisory Opinion
Ethics Board Docket No. 2011-1315

Dear Ms. Allen:

Reference is made to that certain advisory opinion issued in Ethics Board Docket No. 2011-1315 on October 27, 2011 by Mr. Brent E. Durham, a copy of which is enclosed herewith.

The purpose of this correspondence is to request an updated opinion, if such is necessary, regarding the gift and payment restrictions on public servants contained in the Code of Governmental Ethics relating to travel expenses, specifically, as such relate to their participation in a proposed delegation to The Netherlands to study water- and coastal-related research, engineering, restoration, protection and resiliency efforts, given the importance of these issues to the State of Louisiana and its citizens.

The Baton Rouge Area Foundation ("Foundation"), a Louisiana not-for-profit corporation exempt from federal income taxation under section 501(a) of the Internal Revenue Code of 1986, as amended (the "Code"), as an organization described in Code section 501(c)(3), and a publicly supported organization described in Code section 509(a)(1), previously worked with state and federal authorities to create the Water Institute of the Gulf as an independent, not-for-profit research institute operating exclusively for scientific and educational purposes with a mission to explore, develop and implement innovative science and engineering by developing tools for achieving sustainable coasts and deltas; develop options for supporting coastal communities; and develop strategies for sound water resource management. It carries out this mission by: (1) strengthening independent science and engineering in an impartial structure that allows full freedom to provide the tools that decision makers need; (2) collaborating with partners across disciplines (such as universities, NGO's, government agencies and the private sector); (3) bringing system-based approaches, such as environmental, social and economic factors, to restoration and community resiliency; (4) providing

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valuable tools, training and knowledge to decision-makers; (5) building capacity to achieve long-term goals; and (6) generating economic development opportunities which, once established, can be exported globally.

In order to insure that newly elected and appointed officials and new state employees have a better understanding of these existential issues and the importance of such organizations to Louisiana and the world, we would like to invite and encourage a number of them to visit several facilities in The Netherlands, including the Port of Rotterdam and the Deltares campus in Delft, to see firsthand the coastal and water management policies of that nation. Deltares is a leading, independent, Dutch-based research institute and consultancy for matters relating to water, soil and the subsurface, which conducts research and provides specialist advisory services for government authorities and the corporate sector in The Netherlands and globally. The Foundation is prepared to provide an unconditional grant to the appropriate state department or agency for all travel-related expenses of the delegation.

Based on the guidance provided in Ethics Board Docket Nos. 2011-1315 and 1997-656, and given that the facts previously presented have not changed with respect to the Foundation, it is our understanding that the Baton Rouge Area Foundation is not a "prohibited entity or source" as defined in the Code of Governmental Ethics and other related ethics laws and, as such, may make an unconditional donation to the state departments and/or agencies in question, which the departments and/or agencies may use for reimbursement of the travel expenses of elected or appointed officials and state employees as such relate to their participation in the proposed delegation to The Netherlands.

This request for updated advisory opinion, if any is necessary, is being made solely on behalf of the Baton Rouge Area Foundation (and not the Water Institute of the Gulf) and its purpose is to provide guidance to newly elected and appointed officials and new state employees who may not have been working in state government in 2011 when the above referenced opinion was issued.

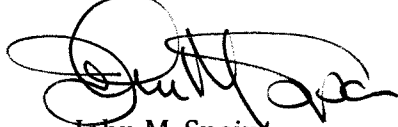
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As we continue to arrange for a delegation to visit The Netherlands in a few weeks, it would be helpful if we could receive an updated advisory opinion, if such is necessary, or confirmation that the advisory opinion issued in Ethics Board Docket No. 2011-1315 remains applicable at this time.

Thank you for your assistance in this matter and please feel free to call me at (225) 387-6126 if you have questions or need any additional information.

With kindest personal regards, I remain

Very truly yours,

A handwritten signature in black ink, appearing to read "John M. Spain", with a large, stylized initial "J" and "M".

John M. Spain
Executive Vice President

JMS/ac

Enclosure



STATE OF LOUISIANA
DEPARTMENT OF STATE CIVIL SERVICE
LOUISIANA BOARD OF ETHICS

P. O. BOX 4368
BATON ROUGE, LA 70821
(225) 219-5600
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October 27, 2011

Mr. John M. Spain
Executive Vice President
Baton Rouge Area Foundation
402 North Fourth Street
Baton Rouge, LA 70802

Re: Ethics Board Docket No. 2011-1315

Dear Mr. Spain:

The Louisiana Board of Ethics, at its October 20, 2011 meeting, considered your request for an advisory opinion regarding whether the Baton Rouge Area Foundation (BRAAF) or The Water Institute of the Gulf's Delta (the "Water Institute") may pay for the travel expenses of a proposed delegation to The Netherlands to study the possibility of creating a new coastal research center for Louisiana.

The Baton Rouge Area Foundation (BRAAF), a Louisiana not-for-profit corporation exempt from federal income taxation under section 501(a) of the Internal Revenue Code of 1986, as an organization described in Code section 501(c)(3), and a publicly supported organization described in Code section 509(a)(1), is working with state and federal authorities to create a new scientific research facility to focus on the loss of Louisiana's coastline and provide scientific based solutions for our elected officials and state agencies.

According to your opinion request, the best model for the proposed institute is Deltares, a leading independent, Dutch-based research institute and specialist consultancy for matters relating to water, soil, and the subsurface, which conducts research and provides specialist advisory services for government authorities and the corporate sector in The Netherlands and globally. As a result BRAAF, or their affiliate organization, The Water Institute (also a not-for-profit corporation), are prepared to pay all travel expenses of a delegation to The Netherlands to visit Deltares. Such a trip would ensure Louisiana lawmakers and key state employees have a better understanding of the importance of an organization such a Deltares and would allow the delegation to study firsthand water management policies of The Netherlands.

The opinion request also states that neither BRAAF nor the Water Institute engage in lobbying nor do they have an economic interest in the creation of the proposed institute. In addition, neither organization has contracts or does business with any individual legislator or state employee who would be invited. BRAAF is working in cooperation with the state Coastal Protection and Restoration Authority (CPRA) to develop the institute and is doing so without compensation.

The persons who would be invited to take part in The Netherlands trip to evaluate the Deltares model are key legislators, and employees of the CPRA. If a conflict does not exist then the legislators or

employees respective agency or department (House of Representatives, Senate or appropriate State agency) would pay the expenses in accordance with state travel policies. Then upon completion of the trip BRAF or the Water Institute would voluntarily reimburse the appropriate state agency or departments the cost of the trip for each of the respective public servants.

The Board concluded, and instructed me to advise you, that the Code of Governmental Ethics would not prohibit the agencies or departments of the public servants set out in your request from being reimbursed for travel expenses associated with the aforementioned trip. Section 1115 of the Code prohibits public employees from soliciting or accepting a thing of economic value from a prohibited source.

Prohibited sources for public servants (which include elected officials and public employees) are persons who has or is seeking a contractual, business, or financial relationship with the public servant's agency; or a person who is seeking for compensation, to influence the passage or defeat of legislation by the public servant's agency. Public employees have two additional persons who are considered prohibited sources of gifts which includes a person who conducts operations or activities which are regulated by the public employee's agency, or a person who has a substantial economic interests which may be substantially affected by the performance or nonperformance of the public employee's official duty. Considering the facts given it appears as though BRAF and The Water Institute are not prohibited sources so long as neither is regulated by the public agency of an employee whose trip costs will be reimbursed.

Section 1111A of the Code also provides applicable prohibitions. Section 1111A of the Code states that no public servant shall receive anything of economic value, other than the compensation and benefits he is entitled from his governmental employer, for the performance of the duties and responsibilities of his office or position. Thus payment of the travel expenses would appear to be prohibited, however, the Ethics Board in Docket No. 1997-656 is applicable in a situation where a person, who is not a person from whom the public servant is prohibited from receiving or accepting a gift pursuant to Section 1115, makes a donation of funds to the public servant's agency. In such an event, an entity that is not prohibited by Section 1115 from giving a public servant a gift, may make a donation of funds to the public servant's agency, which, in turn, the agency may use to reimburse the public servant's travel expenses. Therefore, since BRAF and the Water Institute are not prohibited sources of gifts then they may make an unconditional donation to the agencies in question, which the agency may use for reimbursement of said travel expenses.

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts presented may result in a different application of the provisions of the Code of Ethics. The Board issues no opinion as to past conduct or laws other than Code of Governmental Ethics. If you have any questions, please contact me at (225) 219-5600 or (800) 842-6630.

Sincerely,

LOUISIANA BOARD OF ETHICS

A handwritten signature in dark ink, appearing to read "BED", with a long horizontal flourish extending to the right.

Brent E. Durham
For the Board